

DOCKET NO.: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J. D. OF NEW HAVEN
	:	
v.	:	AT NEW HAVEN
	:	
YESHIVA OF NEW HAVEN, INC.	:	SEPTEMBER 15, 2021
FKA THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	

MOTION TO RESET LAW DAY AFTER APPEAL

Pursuant to Practice Book § 17-10, the plaintiff, Eliyahu Mirlis (“Plaintiff”) hereby moves that the Court enter a new law day in the above-captioned action. In support of this Motion, Plaintiff states as follows:

1. Plaintiff commenced this foreclosure action on July 21, 2017, more than four years ago, against the defendant, Yeshiva of New Haven, Inc. fka The Gan, Inc, fka The Gan School, Tikvah High School and Yeshiva of New Haven, Inc. (“Defendant”), seeking to foreclose the property known as 765 Elm Street, New Haven, Connecticut (the “Property”). This foreclosure action was brought pursuant to a judgment lien recorded on the Property in order to partially enforce the more than \$21 million judgment (which remains almost completely unsatisfied) Plaintiff obtained against Defendant based upon Defendant’s director and president, Daniel Greer’s, repeated sexual abuse of Plaintiff while he was a minor student at the school operated on the Property.

2. On November 8, 2017, Plaintiff filed his Motion for Summary Judgment and supporting memorandum (Doc. Nos. 104, 105), which was granted as to liability by the Court on January 16, 2018 (Doc. No. 104.10). Defendant did not object to the Motion for Summary Judgment, but rather, filed a Motion for Discharge of Judgment Lien on Substitution of Bond (Doc. No. 106) (the “Motion to Substitute”) on January 16, 2018, seeking to have the Court substitute a

“cash bond for the Property in the amount of the fair market value of the Property[.]” (Motion to Substitute, p.3.) Defendant never sought to prosecute the Motion to Substitute until a Motion for Judgment was filed. In addition, Defendant refused Plaintiff’s appraiser access to the Property, which resulted in Plaintiff having to file a motion to access the Property for the purpose of conducting an appraisal. That motion was granted on April 8, 2019 (Doc. Nos. 108.00, 108.10).

3. On June 5, 2019, Plaintiff filed his Motion for Judgment of Strict Foreclosure (Doc. No. 113) (the “Motion for Judgment”) and an appraisal report of the Property. In response, Defendant filed Defendant’s (1) Objection to Motion for Judgment of Strict Foreclosure, (2) Motion to Discharge Judgment Lien and Substitute Bond, and (3) Motion to Continue hearing on Motion for Judgment of Strict Foreclosure (Doc. No. 115) (the “Foreclosure Objection”), seeking, *inter alia*, to have the Motion for Judgment denied because of a dispute as to the value of the Property and on account of the Motion to Substitute. After being continued twice at the request of Defendant and over Plaintiff’s objections, an evidentiary hearing regarding the Motion for Judgment was held before the Court on October 28, 2019, and December 9, 2019. Each party called one witness, their respective expert appraisers, and submitted one exhibit, the reports of those appraisers. Plaintiff and Defendant submitted their post-hearing briefs on January 27, 2020 (Doc. Nos. 131, 132).

4. On February 24, 2020, the Court issued its Memorandum of Decision: Hearing on Valuation (Doc. No. 133.00) (the “Valuation Decision”), *inter alia*, finding the value of the Property to be \$620,000.00 and permitting Defendant to substitute a bond for Plaintiff’s judgment lien. Defendant never attempted to substitute a bond.

5. On March 9, 2020, the Court entered a judgment of strict foreclosure (the “Judgment”) against Defendant, finding, *inter alia*, the amount of the debt to be \$22,167,939.41

and the fair market value of the property to be \$620,000.00. The Court set a law day for June 1, 2020, for Defendant, who is the owner of the equity of redemption.

6. Defendant subsequently filed an appeal of the Judgment and Valuation Decision, *inter alia*, challenging the Court's valuation of the property.

7. The Appellate Court affirmed the Judgment of this Court on June 8, 2021. *See Mirlis v. Yeshiva of New Haven, Inc.*, 205 Conn. App. 206, AC 44016.

8. Defendant then filed a Petition for Certification with the Supreme Court which was denied on September 14, 2021. *See Mirlis v. Yeshiva of New Haven, Inc.*, PSC-200503.

9. Practice Book § 17-10 provides:

If a judgment fixing a set time for the performance of an act is affirmed on appeal by the supreme court and such time has elapsed pending the appeal, the judicial authority which rendered the judgment appealed from may, on motion and after due notice, modify it by extending the time.

10. Practice Book § 17-10 provides "specific authority for the trial court to set new law days if the court's judgment is affirmed on appeal." *RAL Mgmt. v. Valley View Assocs.*, 278 Conn. 672, 684 (2006).

11. As the Judgment has been affirmed by the Appellate Court and certification has been denied by the Supreme Court, the automatic appellate stay has terminated. *See Practice Book* § 84-3.

12. Therefore, Plaintiff requests that the Court set a new law day pursuant to Practice Book § 17-10. Based on the fact that this action was filed over four years ago and the delays caused by Defendant, Plaintiff also requests that the Court enter the shortest possible law day.

WHEREFORE, based upon the foregoing, Plaintiff respectfully requests that the Court reset the law day in this action to the shortest possible law day, and grant him such other and further relief as justice requires.

THE PLAINTIFF
ELIYAHU MIRLIS

By: /s/ John L. Cesaroni
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CERTIFICATION OF SERVICE

This is to certify that service of copies of this Motion to Reset Law Day After Appeal was made via electronic mail on the following appearing defendants and counsel of record in both of the above-captioned consolidated actions:

Jeffrey M. Sklarz
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Date: September 15, 2021

/s/ John L. Cesaroni
John L. Cesaroni